

**§ 111.69 Recommended decision by hearing officer.**

After review of the proposed findings and conclusions submitted by the parties pursuant to § 111.68, the hearing officer will make his recommended decision in the case and certify the entire record to the Secretary of Homeland Security, or his designee. The hearing officer's recommended decision must conform to the requirements of 5 U.S.C. 557.

**§ 111.70 Additional submissions.**

Upon receipt of the record, the Secretary of Homeland Security, or his designee, will afford the parties a reasonable opportunity to make any additional submissions that are permitted under 5 U.S.C. 557(c) or otherwise required by the circumstances of the case.

**§ 111.71 Immaterial mistakes.**

The Secretary of Homeland Security, or his designee, will disregard an immaterial misnomer of a third person, an immaterial mistake in the description of any person, thing, or place, or ownership of any property, any other immaterial mistake in the statement of charges, or a failure to prove immaterial allegations in the description of the broker's conduct.

**§ 111.72 Dismissal subject to new proceedings.**

If the Secretary of Homeland Security, or his designee, finds that the evidence produced at the hearing indicates that a proper disposition of the case cannot be made on the basis of the charges preferred, he may instruct the port director to serve appropriate charges as a basis for new proceedings to be conducted in accordance with the procedures set forth in this subpart.

**§ 111.73 [Reserved]****§ 111.74 Decision and notice of suspension or revocation or monetary penalty.**

If the Secretary of Homeland Security, or his designee, finds that one or more of the charges in the statement of charges is not sufficiently proved, he may base a suspension, revocation, or monetary penalty action on any re-

maining charges if the facts alleged in the charges are established by the evidence. If the Secretary of Homeland Security, or his designee, in the exercise of his discretion and based solely on the record, issues an order suspending a broker's license or permit for a specified period of time or revoking a broker's license or permit or, except in a case described in § 111.53(b)(3), assessing a monetary penalty in lieu of suspension or revocation, the Assistant Commissioner will promptly provide written notification of the order to the broker and, unless an appeal from the Secretary's order is filed by the broker (see § 111.75), the Assistant Commissioner will publish a notice of the suspension or revocation, or the assessment of a monetary penalty, in the FEDERAL REGISTER and in the Customs Bulletin. If no appeal from the Secretary's order is filed, an order of suspension or revocation or assessment of a monetary penalty will become effective 60 calendar days after issuance of written notification of the order unless the Secretary finds that a more immediate effective date is in the national or public interest. If a monetary penalty is assessed and no appeal from the Secretary's order is filed, payment of the penalty must be tendered within 60 calendar days after the effective date of the order, and, if payment is not tendered within that 60-day period, the license or permit of the broker will immediately be suspended until payment is made.

**§ 111.75 Appeal from the Secretary's decision.**

An appeal from the order of the Secretary of Homeland Security, or his designee, suspending or revoking a license or permit, or assessing a monetary penalty, may be filed by the broker in the Court of International Trade as provided in section 641(e), Tariff Act of 1930, as amended (19 U.S.C. 1641(e)). The commencement of those proceedings will, unless specifically ordered by the Court, operate as a stay of the Secretary's order.

**§ 111.76 Reopening the case.**

(a) *Grounds for reopening.* Provided that no appeal is filed in accordance with § 111.75, a person whose license or